

Celia Nogales  
Federal Regulatory Relations

1275 Pennsylvania Avenue, N.W. Suite 400  
Washington, D.C. 20004  
(202) 383-6423

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Group - Washington

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December 21, 1993

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DEC 21 1993

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

William F. Caton  
Acting Secretary  
Federal Communications Commission  
Mail Stop 1170  
1919 M Street, N.W., Room 222  
Washington, D.C. 20554

Dear Mr. Caton:

Re: RM-8380 / *Joint Petition for Rulemaking to Establish Rules for Subscriber Access to  
Cable Home Wiring for the Delivery of Competing and Complementary Video Services*

On behalf of Pacific Bell and Nevada Bell, please find enclosed an original and six copies of their "Comments" in the above proceeding.

Please stamp and return the provided copy to confirm your receipt. Please contact me should you have any questions or require additional information concerning this matter.

Sincerely,

*Celia Nogales/WFA*

Enclosures

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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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RM-8380

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OFFICE OF THE SECRETARY

In the Matter of )  
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Joint Petition for )  
Rulemaking to Establish Rules )  
for Subscriber Access )  
to Cable Home Wiring for the )  
Delivery of Competing and )  
Complementary Video Services )  
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COMMENTS OF PACIFIC BELL AND NEVADA BELL

Pacific Bell and Nevada Bell strongly support the Joint Petitioners in their request that the Commission initiate a new proceeding to determine access to cable home wiring.

Even in the last year, since the cable home wiring rules were put out for comment in MM Docket 92-260, great changes have occurred in the cable and telephone industries. A federal district court in Virginia struck down as unconstitutional provisions of the cable-telco cross ownership provision, paving the way for Bell Atlantic to enter the cable market. Bell Atlantic and TCI have announced a merger of their companies. And, US West and Time Warner will be partners.

Also, technological innovation has made it possible to offer both video and telephone services over the same media. New alliances have been announced affecting both cable and telephone companies, and at Pacific Bell, we have committed to providing advanced services to all of California.

The California First plan, announced by Pacific Bell November 11, 1993, is a \$16 billion investment plan to allow both telephony and video services to be provided over an integrated network. By the end of 1996, we expect more than 1.5 million homes to be hooked up to the network, with more than 5 million homes connected by the end of the decade. The integrated network will be capable of transporting voice, broadcast video, and interactive services, including video and data services.

In order to accomplish what these plans envision, there must be parity in how cable and telephone wire are treated. The line between cable service and telephone service is blurring. For example, with video dialtone, and in particular, Pacific's plans for California First, video signals will be delivered with telephony. And, even today, with certain types of copper wire, video signals can be sent with excellent resolution. In the near future, cable wiring will also support telephony, and personal computers can be hooked up directly to coaxial cable. Given this reality, treating cable wiring and telephone wiring differently causes great problems for customers, industry participants, and competitors.

#### Access and Control Over Wiring

The Commission has realized that cable companies and telephone companies may well be offering competing and complementary services over the next few years. Cable companies have announced their intention to get into the phone

service business<sup>1</sup> and telephone companies will be trying to get into the cable business. However, all is not even in this new marketplace. One significant reason is that while subscribers have absolute control over and access to their telephone wiring, those same subscribers do not necessarily have control over or access to their cable wiring.

So, customers are put into an unenviable position when faced with a competitive marketplace. Before a customer can take advantage of competition in telephone or video service, over even a complementary service provider, the customer must know the answers to some key questions. First, the customer must know whether the service is provided over telephone wiring, or cable wiring. If telephone wiring, the customer has access and control over that wiring<sup>2</sup>. Second, the customer must know whether the cable company retains control over the cable wiring, or if the customer has been ceded control.<sup>3</sup> Then, if the customer does not have control over the wiring, the customer must seek control over that wiring from its

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<sup>1</sup> "Cable Firms Joining to Compete with Regional Telcos," Wall Street Journal, December 12, 1993.

<sup>2</sup> In the Matter of Review of Sections 68.104 and 68.213 of the Commission's Rules Concerning Connection of Simple Inside Wiring to the Telephone Network, 5 FCC Rcd 4686 (1990).

<sup>3</sup> Under Docket 92-260 rules, the cable company retains control over wiring unless it has transferred control to the subscriber. The Commission gives examples such as "where the cable operator has transferred ownership of inside wiring at installation or termination of service, or has been treating the wiring as belonging to the subscriber for tax purposes, or the wiring is considered to be a fixture by state or local laws in the subscriber's jurisdiction." Implementation of the Cable Television Consumer Protection and Competition Act of 1992; Cable Home Wiring, Report and Order, released February 2, 1993.

current cable company. Under existing rules, the only way a customer can get control over the wiring may be by cancelling service with the cable company, and, if necessary, paying the replacement cost of the wiring. Once the subscriber has control, then and only then, can the subscriber seek new or different services provided over those lines. The next key question the customer must answer is where the point of demarcation is between the network and the customer.

Unfortunately, with the scenario outlined above, subscribers will likely have an interruption in service, as they negotiate with the cable company for purchase of the cable home wiring. More importantly, a lengthy delay may occur under current FCC rules. Under Section 76.802 of the Commission's Rules, the cable operator has some period of time in which to alert the customer as to how much it will cost to buy the wiring from the cable operator (presumably, this may require the cable company to send a technician to the premises to measure the length of coaxial cable in the premises). If the customer declines to buy it, the customer must wait 30 days to see whether the cable company will remove it or abandon it. Only by purchasing it, or waiting until abandonment, can the customer then take control of the wiring and seek a hook up to a competing cable provider. However, if a subscriber's service is provisioned over telephone wire, to which it has complete access and control, none of these restrictions apply.

The remedy to this problem is relatively simple. The Commission needs to promulgate rules which apply to home

wiring, without specifying whether that wiring carries telephone service or cable service. The key is that the rules on access and control over wiring must be the same, no matter what type of signal happens to be passing over that wire.

#### Demarcation Point

For single unit installations, the Commission's Order requires the demarcation point to be at or about a point twelve inches outside of where the cable wire enters the outside wall of the subscriber's premises.<sup>4</sup> The Commission stated that this would give alternate providers access to the cable wiring without having to disrupt the subscriber's premises. Pacific Bell and Nevada Bell believe that to truly promote competition, the Commission should also promulgate rules requiring that at the demarcation point, the cable operator install a physical connection point (similar to a connector block, or network interface unit) to facilitate easy attachment to the network. Under the Commission's existing rules, a competing company could have to cut the existing wire to attach its service to the cable home wiring of a subscriber.

This problem is exacerbated by the slightly different demarcation points the Commission has set for telephone wire and cable wire. The demarcation for single unit installation of telephone wire is "at a point within twelve inches of the

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<sup>4</sup> 47 CFR § 76.5(mm).

protector, or where there is no protector, within twelve inches of where the telephone wire enters the customer's premises."<sup>5</sup>

For cable wiring the demarcation is at (or about) twelve inches outside of where the cable wire enters the subscriber's premises.<sup>6</sup> In a situation where cable is served from an aerial drop, the physical demarcation could be in mid-air. Attaching a competing service to the demarcation would be difficult. To bring the two demarcation points in line, we suggest that the demarcation point be at the closest practicable point on the outside of the structure to where wiring enters the customer's premises. This definition should apply to all single unit home wiring. As stated above, there is no benefit to treating wiring differently based on the type of signal carried by the wire. Therefore the cable wiring and telephone wiring demarcation rules should be the same.

Also, in order to clear up one other confusion from its previous Order, the Commission should clarify that loop through wiring, in multi-unit installations, which it excluded from the requirements of the Order, is anticompetitive and should not be allowed for new installations. As the Commission noted in the Order, in loop through configurations, the initial subscriber could control the cable service received by every other subscriber on that wire. However, the Commission did not restrict the use of this type of wiring configuration for new installations. Pacific Bell and Nevada Bell believe that

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<sup>5</sup> 47 CFR § 68.3.

<sup>6</sup> 47 CFR § 76.5(mm).

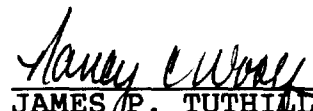
leaving this configuration available to cable operators may promote anticompetitive behavior.

CONCLUSION

Pacific Bell and Nevada Bell strongly support Petitioners' request for the Commission to open a proceeding on cable home wiring. Parity is desperately needed for cable and telephone wiring in order to reduce customer confusion and support the emerging competitive marketplace in these fields.

Respectfully submitted,

PACIFIC BELL  
NEVADA BELL

  
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JAMES P. TUTHILL  
NANCY C. WOOLF

140 New Montgomery St., Rm. 1523  
San Francisco, California 94105  
(415) 542-7657

JAMES L. WURTZ

1275 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004  
(202) 383-6472

Their Attorneys

Date: 12/21/93